

end of the day why wouldn't they sit down?

I will tell you why. For many of them, they don't want to concede the fact that they created this crisis. Second, many of them believe that at the end of the day Uncle Sam and the taxpayers of America will ride to the rescue, buying these mortgage securities, taking care of these banks, saving them after the bottom falls out of the real estate market and housing market in America. What an awful outcome, that all these families would have to go through all this suffering, that all these neighborhoods would have all these problems, so at the end of the day the banks that made the original bad mortgages would be rescued. That must be what they are thinking.

The groups that are leading the charge against me on this are familiar names on Capitol Hill: The Mortgage Bankers Association, the people who brought us this wonderful subprime mortgage crisis, they oppose my bill; the Financial Services Roundtable, the biggest names in financial services in this Nation, the ones who have had their hands out for Federal money, oppose this idea of helping people facing foreclosure; and the American Bankers Association. What a disappointment. What a disappointment that a great association such as that, representing so many good banks, would not even sit down at the table to discuss this provision. It is a source of great disappointment to me because, as a Congressman and Senator, I have worked with them on so many issues. I have never found them more unyielding and unreasonable than on this issue.

They say: Don't worry about it, Senator, we are experts. We are going to handle it. Don't tell us what we need to do.

Many of those same banks are the first in line when it comes to Federal money. In effect, they have said we have created these rotten mortgages in the first place. Then we sliced them up into securities and sold them to investors all over the world as though there were no risks involved, although we knew better. They tell us we made billions of profits on the backs of homeowners, and then we took billions more from the taxpayers when the mortgages went bad, but don't make us solve the crisis. The Mortgage Bankers and American Banking Association says: We will handle it by ourselves. Time will take care of it.

That was effectively the message of the leading banking associations when, for the last several months, we have begged them, pleaded with them to sit down and work this out. They have refused. They have been adamant.

The Independent Community Bankers of America and the National Association of Federal Credit Unions—a group which I always supported in the past—they have had a little different message. They said: We didn't cause this crisis. Why should we be part of any plan to solve it?

We tried lengthy negotiations to address their concerns. We told them this solution will help the economy, will help their borrowers, and basically help their clients. And they just will not buy it.

I can tell them this. It is time for Congress to act and I hope we can muster the courage and find the votes, although I know it is going to be hard, hard to imagine that today the mortgage bankers would have clout in this Chamber, but they do.

They have a lot of friends still here. They are still big players on the American political scene. They have said to their friends: Stay away from this legislation. Do not vote for it.

Some of them will follow their lead. Not everyone has walked away from this responsible solution. The amendment which we will vote on a little later this week has the support of CitiGroup, the Center for Responsible Lending, and many other leading homeowner advocacy groups such as the AARP, the Leadership Council on Civil Rights, the Consumer Federation of America, and dozens of other groups. They have worked with me to craft a responsible, reasonable proposal to give lenders a clear incentive to work hard to keep families in their homes.

The amendment I am going to offer will make a modest change in the Bankruptcy Code with a lot of conditions. It will not apply across the board. In the past, some of my colleagues have understood the need for action but have been uncomfortable with some of the original language. So let me be clear. This amendment is very different. This amendment limits the assistance in bankruptcy to situations where lenders are so intransigent that they are unwilling to cooperate with the two primary foreclosure prevention efforts already underway, the Obama administration's Homeowner Assistance and Stability Plan, and the congressionally created HOPE for Homeowners Refinancing Program, which this bill will greatly improve.

I am not going to go into further detail, but I want to say to my colleagues in the Senate and those who follow this debate, this is not the first time I have come to the Senate floor in the 13 years I have served to raise issues involving the exploitation of American consumers. I can recall the bankruptcy reform debate, had that a few years back, and I offered a simple amendment. Here is what it said: If you, as a lender, are guilty of predatory lending practices—in other words, if you have violated the law in the way that you have suckered in people to sign up for the mortgages, then you cannot show up at the bankruptcy court and ask that court order the person in bankruptcy to pay you. Your hands are not clean. You are a predatory lender.

At that time, many years ago, opposing my amendment was Senator Phil Gramm of Texas. Phil Gramm of Texas and I have an opposite political philosophy. He is a very articulate and a very

smart man, and he was debating me. Do you remember what he said during the course of the debate? He said:

If the Durbin amendment passes—

This is about 8 years ago.

If the Durbin amendment passes, that will be the end of subprime mortgages.

Think about that. If 8 years ago we would have put an end to these subprime mortgages with that amendment, would we be in the mess we are in today? Well, perhaps, but perhaps not. We called the amendment for a vote. The amendment said the banks that were guilty of predatory lending could not recover in bankruptcy, and I lost by one vote. One vote.

I thought to myself so many times as this recession has unfolded how it might have been different if somebody had stood up at that moment in time, just one more Senator for consumers across America. This will be another test. Who is going to win this debate, the mortgage bankers, the American Bankers Association, or the consumers across this country? The flight attendant on that flight, a single mom with three kids, her one asset in life is her home, and she is about to lose it? All she wants is a chance to renegotiate that mortgage and no one will sit down and talk with her. They would rather see her go all the way through default and foreclosure. It is an outrageous situation. It is repeated over and over and over.

We will have this debate this week. I hope this amendment can prevail. We are going to work hard to make sure we do everything we can so that it passes.

Then next week we are going to take up the credit card issue. We will be back with our friends in the banking industry. The American people know a lot about credit cards, and they know what this industry has done. The President said in a meeting last week: This is another industry that is entitled to make a profit but not entitled to exploit America's families and consumers. He is right. This will be a real test of my colleagues in the next few weeks in the Senate. First, we come to mortgage foreclosure, and then when it comes to credit cards, as to whether we are going to stand up on the side of working people in America, families struggling to get by, struggling with debt, who need someone to speak up for them, we can do that in the Senate. I sincerely hope we do.

I yield the floor.

THE PRESIDING OFFICER. Expressions of approval and disapproval are not permitted.

The Senator from Ohio is recognized.

#### TRADE POLICY

Mr. BROWN. Madam President, I actually approve of the Senator's comments. In this case I want to express that.

In the last few weeks, there has been a good bit of discussion in the media

and in Washington, not much around the country, but in the media and in Washington, about continuing the Bush trade policy by promoting the trade pacts he negotiated before leaving office.

We know President Bush pushed the Central American Free Trade Agreement through the Congress after his father and President Clinton had pushed through the North American Free Trade Agreement. And we know that continuing the Bush trade policy would be a mistake.

Look at what has happened in States such as Ohio and New Hampshire. Look all over this country. You can see not simply the incredible job loss middle-class families have suffered, not just their own job loss, what that means to a neighborhood, what that means to a community, what it means to police and fire protection and the layoffs of city workers and the general malaise that surrounds those in the community with major layoffs, but it has also meant years of stagnant wages. We have seen, since this huge loss of manufacturing jobs, since this exploding of our trade deficit, years of stagnant wages where most of America simply has not gotten a pay raise in real dollars.

A combination of the current recession and manufacturing jobs lost as a result of wrong-headed trade policies have taken their toll on community after community in Ohio. From the North American Free Trade Agreement to the Central American Free Trade Agreement, from Permanent Normal Trade Relations with China, to failing to enforce our trade laws, our Nation's trade policy in the last decade, pure and simple, has betrayed America's middle class.

Last year alone our trade deficit topped \$700 billion. We have every day, yesterday—Saturday, Friday, tomorrow, the next day, all week, every day—a trade deficit of \$2 billion, a \$2 billion a day trade deficit. If you spent a dollar every second of every minute of every hour of every day, it would take you 63 years to spend \$2 billion.

We have a \$2 billion trade deficit every day. The first President Bush said a billion dollar trade surplus or a billion dollar trade deficit translates into some 13,000 jobs gained or lost. A \$1 billion trade surplus means you are manufacturing and selling \$1 billion more out of the country than you are importing. That is a 13,000 job gain. A \$1 billion trade deficit is the reverse, is a 13,000 job loss. That is according to President Bush the first.

So you can do the math. A \$700 billion trade deficit is a lot of lost jobs. This is a net trade deficit. This is imports minus exports or exports minus imports. Our trade deficit has resulted in our Nation not only importing goods and services and building that trade deficit and seeing the kinds of numbers of lost jobs, it is also importing the dangerous safety standards of our trading partners.

In Toledo, OH, several patients died after taking contaminated heparin for their heart conditions. The manufacturers of heparin had outsourced the making of the drug. As a result, they did not know where the contaminated ingredients came from. It has also happened in vitamins; it has also happened in other pharmaceuticals. It has happened in dog food, where the manufacturers of these dog foods or, in the case of the dog food, or the manufacturer of the pharmaceuticals, the companies have moved offshore, have bought ingredients—outsourced these ingredients—have bought them from all kinds of subcontractors, whom they generally cannot trace very well.

They have come back into the United States and caused significant damage, sometimes to the point of death for too many Americans.

The same with toys. Professor Jeffrey Weidenhamer, a professor at Ashland University, not far from where I grew up in Ohio, took his freshman chemistry class and went out and bought very inexpensive toys at Halloween and Christmas last year and then tested these toys for lead-based paint and found a significant number of them had far too high levels, dangerously high levels for children.

These were products made by an American company but outsourced. The production was outsourced to China. These companies then subcontracted with all kinds of small Chinese operations and at the same time pushed them every year to cut costs. So what happened? These companies used the cheapest, the easiest to apply paint, which happened to be lead-based paint, which is put on these products, which then make their way back into the United States and show up in the homes of children in Avon Lake and Bucyrus, OH.

Whether it is patients in Toledo, whether it is children who are using these toys in Zanesville, or whether it is workers who have lost their jobs because of trade agreements, it is clear our trade direction is not working. It is clear the trade agenda given us by the Bush administration, inherited by the Bush administration, should not be continued.

Make no mistake about it: I want trade, I want more of it. I want it under a different set of rules. That is why I will be asking the Government Accountability Office to conduct a comprehensive study on our current trade agreements. A GAO report on trade would provide a nonideological, nonpartisan analysis of what is working, and what is not working in our trade policy. It is an important step toward redirecting U.S. trade policy that will provide critical solutions for our Nation's recovery strategy.

The basic premise of redirecting U.S. trade policy is that we must see evidence that our trade model is working before we pass new trade agreements. Why should we pass a trade agreement negotiated by the Bush administration

with Panama or with Colombia or with South Korea, when those trade agreements are based on the NAFTA, CAFTA trade model, the same kind of trade agreement that surely has cost us jobs? If you do not believe it has cost us jobs, first, you are not looking at the statistics, but even if you do not believe it, let's go back and have that dispassionate analysis, nonideological, nonpartisan principled analysis of NAFTA, of CAFTA, of our trade policy with China before we move on and pass further trade agreements.

At the same time, during the last 8 years, the Bush administration never accepted a 301 petition to help us with trade enforcement, including a petition for an investigation of Chinese currency practices, and a petition of Chinese workers' rights. Are the Chinese using slave labor, child labor? The Bush administration would not even examine it. They dismissed those 301 petitions in a matter of, in one case, less than a day. The Bush administration also never acted on 421 cases even when the International Trade Commission found injury.

The nonenforcement has left struggling companies in my State, small manufacturing companies in New Hampshire, the Presiding Officer's State, unable to compete against unfair trade practices.

I am encouraged by the Obama administration's emphasis on trade enforcement. I want to see Congress work with the President to ensure the trade enforcement is a governmentwide practice.

Finally, I believe Congress should give President Obama the authority to negotiate better trade deals. But I do not believe we can give President Obama or any President a blank check on these trade agreements. Congress needs a stronger role in the process. That means Congress must review, must renegotiate, must revitalize trade. That is why Congress should enact the Trade Reform Accountability Development and Employment Act I introduced in the last Congress and plan to introduce soon in this Congress.

The trade act is forward looking. It is a pro-trade piece of legislation that requires a review of existing trade agreements and then provides a process to renegotiate existing trade agreements, when necessary. It outlines principles on labor standards, on the environment, on investment, on food safety, on consumer product safety, such as children's toys, to be included in future trade agreements, something that has never been included. Any consequential provisions, none of them have ever been included in any of these trade agreements on labor, on investment, on environment, on food safety, on consumer product safety.

With any delegation of its authority to negotiate better trade deals, Congress must ensure negotiating objectives are binding and that there is a

congressional vote on a trade agreement before it is signed by the President.

From on high, the President cuts all the special interest deals. We saw that in the Bush years and, frankly, we saw it too often in the Clinton years, the first Bush and the Reagan years also. The trade negotiators would cut their special interest deals, send the agreement to Congress, and Congress had to vote, after the President had signed on, either up or down. Reasserting congressional authority must also ensure Congress's public policy prerogatives are respected by international trade organizations such as the World Trade Organization. We must not find our public policy subject to corporate rights of action at the WTO or NAFTA that outweighs the Government's responsibility to preserve the public welfare.

What has happened is the corporate rights have been respected but not rights of workers, not rules to protect the environment or consumer safety and food safety.

A global system such as the WTO that doesn't give countries policy space risks the very legitimacy of global institutions. Countries should have sovereignty. If Canada wants to pass a strong environmental rule, if Mexico wants to pass a strong food safety law, who are we, in a world trade body or as another government, or who is someone in a corporation to tell those countries they can't pass a strong environmental law or a strong food safety law.

I recognize the framework I have outlined is only one strategy, but we can all agree our current trade model has not been working. When we change the process for writing trade deals, we can make trade deals work for more people in our country and for people living in the countries who are our trading partners. We have seen demonstrations in Central America against trade agreements, understanding that these trade agreements have so often overridden consumer protection rules in their countries. We see people in our country complain of trade agreements because workers lose jobs, because safe drinking water is not protected under these agreements. It is time these trade agreements are written for communities, for workers, and for small businesses. They have not been in the past. This is our chance to set out a new direction on trade.

#### CONGO CONFLICT MINERALS ACT OF 2009

Mr. DURBIN. Madam President, I want to pause from the press of daily business to consider the situation in the Democratic Republic of Congo. I have frequently come to the floor to talk about the tragedy in Darfur—yet the situation in Congo is worth as much attention.

The Democratic Republic of Congo has been devastated by civil war, conflict and a humanitarian crisis. Since

1998, there have been an estimated 5.4 million deaths. The poverty and insecurity in Congo is pandemic. Illegal armed groups and military forces commit widespread human rights violations with impunity. The conflict there still results in an estimated 45,000 deaths each month.

This is a tragic situation, deserving of the international community's attention.

My colleague from Kansas, Senator BROWBACK, and I traveled to the DRC together a couple of years ago. Congo is, in many ways, a beautiful country, rich in natural resources.

But, like so many other places in the world, Congo's natural resources have also become a curse. Warring factions struggle for control of resources to pursue their own political aims. During our trip, Senator BROWBACK and I learned that armed factions are plundering the mineral resources of eastern Congo and that illegal trade in these minerals is essentially financing the violence there.

We witnessed first-hand atrocities in eastern Congo—atrocities of horrific and inhumane proportions. Armed groups perpetrate unspeakable acts of sexual violence against women and girls to humiliate and terrorize communities and weaken their resistance.

I have met several times with a true modern day hero, Dr. Denis Mukwege, who runs the Panzi hospital of Bukavu, Congo. The Panzi hospital specializes in treatment for victims of sexual violence. The hospital performs surgeries and provides psychological counseling for these victims, but Dr. Mukwege and his staff are overwhelmed by the number of women seeking assistance.

Last year, I held a Judiciary hearing on rape as weapon of war. This is happening every day in the Democratic Republic of Congo. Rape and other forms of sexual violence affect hundreds of thousands of women and girls there, resulting in severe injuries, longterm psychological trauma, and immeasurable destructive impacts on the communities there. This war is being financed, at least in part, by the illegal trade in these minerals.

So what can we in the United States do about this? Well, many of these minerals end up right here in the U.S. and in many other countries, because they are used for everyday electronics products. Our cell phones, BlackBerrys, computers, and many other commonly used electronics contain these minerals.

Senator BROWBACK and I, along with Senator FEINGOLD, who chairs the Africa Subcommittee of the Foreign Relations Committee, have introduced legislation to create more transparency about the end users of these minerals in the United States.

The Congo Conflict Minerals Act of 2009 would require companies that are involved in commercial activities involving three minerals (coltan, cassiterite, and wolframite) to disclose the country of origin of the minerals to

the Securities and Exchange Commission. If the minerals are from DRC or neighboring countries, companies would have to also disclose the mine of origin.

We want to know where U.S. companies are getting these minerals, and we want to work with them to promote responsible practices and due diligence to ensure that their suppliers provide raw materials in a way that does not support the armed conflict or contribute to human rights abuses.

In the longer-term, we hope that Congo and its neighbors will establish a regional framework to prevent the illicit trade of these minerals. In the meantime, we can take this step to work with U.S. companies to ensure they are not inadvertently fueling the conflict in the Democratic Republic of Congo.

#### MUSLIM MIDDLE EAST

Mr. KYL. Madam President, in an April 16 Wall Street Journal column, "Speaking Truth to Muslim Power," former CIA officer and Middle East expert Reuel Marc Gerecht writes about the fierce internal debates over Islam, jihadism, and modernity within the Muslim Middle East.

As Gerecht writes, while Western countries cannot determine the outcome of those debates, they can help shape them and provide a boost to Muslim reformers. While it is fashionable to criticize President George W. Bush's Middle East policies, Gerecht says that Arab democracy activists "have never been so hopeful as they were" from 2002 to 2006, during which time democracy promotion flourished. He argues that President Bush's pro-democracy rhetoric "energized the discussion of representative government and human rights abroad."

I ask unanimous consent that Mr. Gerecht's column be printed in the RECORD, and I urge my colleagues to consider his thoughtful views.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Wall Street Journal, Apr. 16, 2009]

#### SPEAKING TRUTH TO MUSLIM POWER

(By Reuel Marc Gerecht)

"The United States is not at war with Islam and will never be. In fact, our partnership with the Muslim world is critical in rolling back a fringe ideology that people of all faiths reject."

So spoke President Barack Hussein Obama in Turkey last week. Following in the footsteps of the Bush administration, Mr. Obama wants to avoid labeling our enemy in religious terms. References to "Islamic terrorism," "Islamic radicalism," or "Islamic extremism" aren't in his speeches. "Jihad," too, has been banished from the official lexicon.

But if one visits the religious bookstores near Istanbul's Covered Bazaar, or mosque libraries of Turkish immigrants in Rotterdam, Brussels or Frankfurt, one can still find a cornucopia of radical Islamist literature. Go into the bookstores of Arab and Pakistani immigrant communities in Europe, or into